

STATE OF MONTANA
DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION
MINUTES OF THE
BOARD OF OIL AND GAS CONSERVATION MEETING AND PUBLIC HEARING
October 26 & 27, 2016

CALL TO ORDER

The regular business meeting of the Montana Board of Oil and Gas Conservation was called to order by Chairman Linda Nelson at 2:40 p.m., Wednesday, October 26, 2016, at its office at 2535 St. Johns Avenue in Billings, Montana. Board members present were Chairman Linda Nelson, Steven Durrett, Ronald S. Efta, Paul Gatzemeier, Peggy Ames-Nerud, and Corey Welter. Staff present was Brea Frickle, John Gizicki, Jim Halvorson, George Hudak, Ben Jones, Gary Klotz, Dave Popp, Jennifer Rath, Erin Ricci, and Rob Stutz. Board member Wayne Smith was absent.

APPROVAL OF MINUTES

A motion was made by Mr. Gatzemeier, seconded by Mr. Efta, and unanimously passed, to approve the minutes of the August 10, 2016, business meeting.

In regards to the minutes for the September 22, 2016, special meeting on Earthjustice's rulemaking petition, Mr. Gatzemeier clarified that "Mr. Stutz offered the Board **approve and deny** written guidance relating to the Board motion."

A motion was made by Mr. Gatzemeier, seconded by Mr. Welter, and unanimously passed, to approve the minutes as amended by Mr. Gatzemeier regarding the special meeting of Earthjustice's rulemaking petition.

PUBLIC COMMENT ON AGENDA AND NON-AGENDA ITEMS

Robert Spoklie is concerned about the Spoklie 1-24 well located on his property in the SESW of Section 1, T34N, R57 E, Sheridan County, Montana. This well is operated by Coalridge Disposal and Petroleum, Inc. (Coalridge). Mr. Spoklie stated Coalridge does not have the oil and gas lease for the well and requested the Board to direct Coalridge to plug and abandon the well and reclaim the well site.

The well has not produced within the last year and according to ARM 36.22.1303 "When a well is no longer capable of production because the underlying reservoir or reservoirs are depleted and there is no possible future use for the well in supplemental recovery operations or for disposal facilities, the operator shall within one year plug and abandon the well as set forth in this subchapter, unless otherwise authorized by the petroleum engineer or his authorized agent."

Motion: Mr. Efta made the motion to notify Coalridge of its plugging responsibility to plug the well, to request a plugging plan, and to appear at the December meeting. Ms. Ames Nerud seconded and the motion passed unanimously.

MONTANA OIL FIELD ACQUISITION I, LLC

No one appeared before the Board for Montana Oil Field Acquisition I, LLC (MOFA).

Mr. Gizicki provided the Board an update on MOFA's spill cleanup on the following wells:

- Montana A 2 well – cleanup complete
- Brownell 1 well – cleanup complete
- Haugen 14-2 well – cleanup 50% complete

At the June 15, 2016, business meeting, Ms. Emmy Lambert, Vice President of MOFA, and the Board agreed 45 days was reasonable to accomplish compliance, after which a \$250 fine per day was to be instated until compliance was achieved for all three wells.

MOFA did not achieve compliance within 45 days and the daily fine was instated. As of today, the total fine amounts to \$21,750.

Staff recommended no additional board action. The Board will receive an update at the December meeting and will continue the fine until compliance is achieved on the Haugen 14-2 well.

MOUNTAIN PACIFIC GENERAL INC.

No one appeared before the Board for Mountain Pacific General Inc. (MPG).

Mr. Gizicki reported that Board Order 1-A-2010 was issued to increase MPG's bond to \$250,000, but the order was held in abeyance to keep MPG from going out of business, pending MPG continued to plug four wells per year. No written report of its progress of plugging and reclaiming its wells within the past year was received by September 1, 2016, and no wells have been reported plugged.

Staff recommended MPG show cause why the bond increase set forth in Board Order 1-A-2010 should not be reinstated.

Motion: Mr. Efta made the motion to approve the recommendation. Mr. Gatzemeier seconded and the motion passed unanimously.

FINANCIAL REPORT

Ms. Rath discussed the financial statement, attached as Exhibit 1.

Staff will provide a privilege and license tax update at the December meeting.

BOND SUMMARY & INCIDENT REPORT

Mr. Halvorson presented the bond report and the incident report, attached as Exhibit 2 and 3. The incident report is available on the website.

DOCKET SUMMARY

Mr. Halvorson presented the docket summary, attached as Exhibit 4.

GAS FLARING EXCEPTIONS

Mr. Jones discussed the gas flaring report, attached as Exhibit 5. There are twenty-four wells flaring in excess of 100 mcf/day. Of these twenty-four wells, there are twenty-two flaring exception requests at this time. The exception requests are for Kraken Operating, LLC and Whiting Oil and Gas Corporation. Both operators reported insufficient pipeline/plant compression. Mr. Jones recommended a six-month flaring exception for these wells.

Motion: Mr. Durrett made the motion to approve the recommendation. Mr. Gatzemeier seconded and the motion passed unanimously.

STAFF REPORTS

Jim Halvorson

Mr. Charles Prevost submitted a letter requesting the Board repair the surface location of an orphaned well the Board plugged. Mr. Prevost wants to see the trenches/holes removed from the land. He estimated the cost of the repair work to be around \$600.

Mr. Halvorson requested the Board decide if the Board should repair the well or add the well to the plugging and reclamation list. Mr. Halvorson noted that he did not think we could pay Mr. Prevost without the project going out to bid, so the cost could be more than \$600. If the well is added to the plugging and reclamation list, ranking will be a low priority.

Mr. Halvorson presented pictures of the well location, attached as Exhibit 6.

Motion: Mr. Durrett made the motion to fix the location and withdrew the motion after analyzing pictures of the location.

Motion: Mr. Welter made the motion to add the well to the plugging and reclamation ranking list. Mr. Gatzemeier seconded and the motion passed unanimously.

The travel policy the oil and gas division uses will be updated to follow the Montana Operations Manual. The DNRC travel policy and Oil and Gas travel policy will no longer be used. DNRC approval will be required for the policy update.

DNRC has requested the oil and gas division to donate 0.5 FTE to DNRC. The 0.5 FTE will come out of the administrative assistant position in Helena.

In response for the Earthjustice rulemaking petition, Mr. Halvorson would like to have a water sampling consultant and other entities involved in the regulatory process address the Board. The Board expressed interest in having presentations but requested that they be delayed until the February 2017 business meeting.

The adoption of the drilling notification will be placed on the December business meeting agenda.

Rob Stutz

Mr. Stutz presented the CCRC Supreme Court decision, attached as Exhibit 7. The decision was favorable to the Board in the fact that the Board did not violate CCRC's right to participate in the permit process. The case was remanded back to district court, but Mr. Stutz believes there are no remaining issues for the court to decide and the case will be closed.

ECA will have to go through a public hearing process if it ever decides to frack the well. ECA has been notified of this unique situation.

Mr. Stutz did not have any other significant developments to report on the Board's other litigation cases.

OTHER BUSINESS

Attached, as Exhibit 8, is Mr. Dave Popp's plugging project summary.

PUBLIC HEARING

The Board reconvened on Thursday, October 27, 2016, at 8:00 a.m. at the Board's hearing room at its office at 2535 St. Johns Avenue in Billings, Montana, to hear the matters docketed for public hearing. As a result of the discussion, testimony, technical data, and other evidence placed before the Board, the following action was taken in each matter.

Docket No. 34-2016 – A motion was made by Ms. Ames-Nerud, seconded by Mr. Gatzemeier and unanimously passed, to approve the application of Sinclair Oil & Gas Company as set forth in Board Order 32-2016.

Docket No. 35-2016 – A motion was made by Mr. Durrett, seconded by Mr. Welter and unanimously passed, to approve the application of Sinclair Oil & Gas Company as set forth in Board Order 33-2016.

Docket No. 36-2016 – The application of XTO Energy Inc. was withdrawn.

Docket No. 37-2016 – A motion was made by Mr. Gatzemeier, seconded by Mr. Welter and passed, to approve the application of XTO Energy, Inc, as set forth in Board Order 48-2016. Mr. Efta recused himself and took no part in this matter.

Docket No. 38-2016 – A motion was made by Mr. Gatzemeier, seconded by Mr. Welter and passed, to approve the application of XTO Energy, Inc, as set forth in Board Order 49-2016. Mr. Efta recused himself and took no part in this matter.

Docket No. 39-2016 – A motion was made by Mr. Durrett to approve the staff recommendation to approve the application. The motion failed.

A second motion was made by Mr. Efta, seconded by Mr. Gatzemeier and unanimously passed, to have XTO Energy Inc. and Nova NRG LLC prepare legal briefs prior to the February hearing that outline their positions in the application. This is set forth in Board Order 47-2016.

Docket No. 40-2016 – A motion was made by Ms. Ames-Nerud, seconded by Mr. Durrett and passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 34-2016. Mr. Welter recused himself and took no part in this matter.

Docket No. 41-2016 – A motion was made by Ms. Ames-Nerud, seconded by Mr. Durrett and passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 35-2016. Mr. Welter recused himself and took no part in this matter.

Docket No. 42-2016 – A motion was made by Ms. Ames-Nerud, seconded by Mr. Durrett and passed, to approve the application of Kraken Oil & Gas LLC as set forth in Board Order 36-2016. Mr. Welter recused himself and took no part in this matter.

Docket No. 43-2016 – Board staff placed this application on the Default Docket for approval without hearing if no protests or requests for hearing were received by 10:00 a.m. on the day of the hearing. None were received. The application of Beren Corporation was approved as set forth in Board Order 37-2016.

Docket No. 44-2016 – Board staff placed this application on the Default Docket for approval without hearing if no protests or requests for hearing were received by 10:00 a.m. on the day of the hearing. None were received. The application of Synergy Offshore LLC was approved as set forth in Board Order 38-2016.

Docket No. 45-2016 – Board staff placed this application on the Default Docket for approval without hearing if no protests or requests for hearing were received by 10:00 a.m. on the day of the hearing. None were received. The application of Synergy Offshore LLC was approved as set forth in Board Order 39-2016.

Docket No. 46-2016 – The application of Legacy Reserves Operating LP was continued to the December 2016 hearing.

Docket No. 47-2016 – Board staff placed this application on the Default Docket for approval without hearing if no protests or requests for hearing were received by 10:00 a.m. on the day of the hearing. None were received. The application of Highlands Montana Corporation was approved as set forth in Board Order 40-2016.

Docket No. 48-2016 – A motion was made by Mr. Gatzemeier, seconded by Mr. Efta and unanimously passed, to continue Docket 48-2016, Shadwell Resources Group LLC, until the December 15, 2016 public hearing. Board staff has authority to dismiss the docket if the Ft. Gilbert 3 SWD located in the SW¼NE¼ of Section 32, T24N-R59E, Richland County, Montana is plugged prior to the December 15, 2016, public hearing. This is set for the Board Order 41-2016.

Docket No. 49-2016 – A motion was made by Mr. Welter, seconded by Mr. Gatzemeier and unanimously passed, to continue Docket 49-2016, Storm Cat Energy (USA) Operating Corporation, until the December 15, 2016, public hearing. This is set for the Board Order 42-2016.

Docket No. 50-2016 – A motion was made by Ms. Ames-Nerud, seconded by Mr. Durrett and unanimously passed, to have Stratex Oil and Gas, Inc. begin to plug and abandon the Tininenko 4-19 well located in Section 19, T29N-R59E, Roosevelt County, Montana prior to the December 15, 2016, public hearing. The failure to begin to plug and abandon the well as required by this order may result in forfeiture of the plugging and reclamation bond in its entirety, as permitted by § 82-11-123(5), MCA. This is set for the Board Order 43-2016.

Docket No. 51-2016 – A motion was made by Mr. Efta, seconded by Mr. Welter and unanimously passed, to have McMinn Operating Company begin to plug and abandon the Ryan Ranch LLC 1 well located in Section 30, T30N-R6W, Pondera County, Montana prior to the December 15, 2016, public hearing. The failure to begin to plug and abandon the well as required by this order may result in forfeiture of the plugging and reclamation bond in its entirety, as permitted by § 82-11-123(5), MCA. A \$1,000 fine was assessed for not appearing at the October 27, 2016, public hearing. This is set for the Board Order 44-2016.

Docket No. 52-2016 – A motion was made by Mr. Efta, seconded by Ms. Ames-Nerud and unanimously passed, to have Black Gold Energy Resource Development, LLC remedy the violations on or before December 1, 2016. Black Gold Energy Resource Development, LLC is subject to a \$250 fine for each day after December 1, 2016, that the violations remain unresolved. The fine will remain in effect until compliance is confirmed by inspection. This is set for the Board Order 45-2016.

Docket No. 53-2016 – The show-cause hearing of Brainstorm Energy, Inc. was dismissed.

Docket No. 54-2016 – The show-cause hearing of Yellowstone Petroleums, Inc. was dismissed.

Docket No. 55-2016 – The show-cause hearing of Montana Oil Field Acquisition I, LLC was dismissed.

Docket No. 56-2016 – The show-cause hearing of Mountain View Energy, Inc. was dismissed.

Docket No. 97-2015 – A motion was made by Mr. Gatzemeier, seconded by Mr. Welter and unanimously passed, to continue Docket 97-2015, August Exploration, LLC, until the December 15, 2016, public hearing. This is set for the Board Order 46-2016.

NEXT MEETINGS

The next business meeting of the Board will be Wednesday, December 14, 2016, at 2:00 p.m. at the Board's hearing room at its office at 2535 St. Johns Avenue in Billings, Montana. The next regular public hearing will be Thursday, December 15, 2016, beginning at 8:00 a.m. at the Board's hearing room at its office at the 2535 St. Johns Avenue in Billings, Montana. The filing deadline for the December 15, 2016, public hearing is November 10, 2016.

BOARD OF OIL AND GAS CONSERVATION OF THE STATE OF MONTANA

Linda Nelson, Chairman
Steven Durrett, Board Member
Ronald S. Efta, Board Member
Paul Gatzemeier, Board Member
Peggy Ames-Nerud, Board Member
Corey Welter, Board Member

ATTEST:

Jennifer Rath, Program Specialist